IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 2080 of 1999

Between:

D.Rushikeshava Reddy,

Ex-Constable/CISF, Kollipadu village,

Lakkivalasa PO, Srikakulam district. ..... PETITIONER

AND

1. Inspector General (S.W.S), Central Industrial

Security Force, (Ministry of Home Affairs),

Post : RCF Chembur, Mumbai.

2. The Deputy Inspector General,

Central Industrial Security Force (SZ),

(Ministry of Home Affairs), Rajaji Bhavan,

D-Block, Besant Nagar, Chennai.

3. The Commandant, Central Industrial Security

Force Unit, Port Area, Visakhapatnam.

4. The Assistant Commandant/Enquiry Officer,

Central Industrial Security Force Unit,

Port Area, Visakhapatnam.

(As against Respondents 2 to 4, W.P. dismissed for default as per Court order dated 21.2.2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records in and relating to the proceedings No.V-15013/VPT/Maj-7/97/L & R(SZ) 723, dated 5.2.1998 issued by the second respondent as confirmed by proceedings No.V-11014/13/SWS/Legal/98/9013, dated 10.9.1998 passed by the first respondent and quash the same as arbitrary, illegal and consequently direct the respondents to reinstate the petitioner into service with consequential benefits.

Counsel for Petitioner : Mr. V.V.N.NARASIMHAM

Counsel for Respondents : Mr.B.CHINNAPA REDDY

The Court made the following :

ORDER:

This writ petition is filed against the proceedings No. V-15013/VPT/Maj-7/97/L & R(SZ) 723, dated 5.2.1998 issued by the second respondent as confirmed by the first respondent in his proceedings No.V-11014/13/SWS/Legal/ 98/9013, dated 10.9.1998.

The petitioner who was working as Constable in Central Industrial Security Force (CISF) at CISF Unit, Visakhapatnam, was removed from service by the disciplinary authority by his order dated 5.2.1998 after conducting enquiry as contemplated under the CISF Rules. Aggrieved by the same, petitioner preferred appeal to the Inspector General, CISF, Ministry of Home Affairs, Mumbai (appellate authority) and the appellate authority rejected the appeal of the petitioner by confirming the orders of the disciplinary authority dated 5.2.1998. Being aggrieved by the same, the present writ petition is filed.

As per the disciplinary proceedings, the petitioner was given full and fair opportunity to submit his defence statement, but the petitioner refused to give any statement and refused to sign on the depositions. Though he attended the enquiry while the management witnesses were being examined, he did not cross-examine them to prove his innocence. The charges are grave in nature. The petitioner left his patrolling duty from H-8 to 101 area and went to the residence of Mylipali Sanyasi Rao,

a civilian along with another Constable Dharma Raju on 7.8.1997 at about 0330 hours without any permission or information to his superior and further he connived and engaged Sanyasi Rao, M.Polamma and Lakshmi to fill up Di-ammonia Phosphate (DAP) in two bags and one plastic bucket and while they were keeping the bags filled with DAP at H-8 duty post at about 0355 hours on 7.8.1997, they were caught red-handedly by the CIW personnel. Further charge is that the petitioner was awarded with one major punishment and fifteen minor punishments on earlier occasions and the disciplinary authority intended to take note of the previous record of the petitioner into consideration. Though the petitioner submitted his explanation denying the first and second charges, he admitted the third charge as to the inflictment of one major punishment and fifteen minor punishments earlier by the management. It was revealed from the Enquiry Officer's report that the petitioner along with Mr.Dharma Raju, sentry of H-8 duty post had requested P.Ws.2 to 4 to release the three civilians, who lifted the DAP for their personal use. The persons apprehended clearly stated before P.Ws.2 to 4 that they were engaged by the petitioner and Dharma Raju to collect the DAP for their personal use. Insofar as third charge is concerned, the disciplinary authority took note of the past conduct of the petitioner and held the charge as proved and came to the conclusion that the petitioner is liable to be dismissed from service, and as such after completing all the formalities, passed the final order dated 5.2.1998 dismissing the petitioner from the services of CISF. The appellate authority also dealt with elaborately and gave cogent reasons in rejecting the appeal concurring with the findings of the disciplinary authority.

In this writ petition, the learned counsel for petitioner submits that the petitioner was very much present in H-8 post throughout, the shift incharge battalion Checking officer, Special Checking Officer and the Commandant visited the post during duty and during all visits, he was very much present, and that M.Sanyasi Rao and

M.Pallamma have collected the DAP which was fallen on the road.

Having regard to the facts and circumstances of the case, this Court cannot go into the factual aspects and the orders passed by the disciplinary authority as confirmed by the appellate authority does not suffer from any legal infirmity calling for interference at the hands of this Court. Therefore, the writ petition is dismissed. No costs.

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C.V.RAMULU, J

Date: 3.9.2004

DA

To

1. Inspector General (S.W.S), Central Industrial

Security Force, (Ministry of Home Affairs),

Post : RCF Chembur, Mumbai.

2. Two CD copies.